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IBM/112
Confirmation No. 6131

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Troy David Armstrong et al.
Serial No.: 09/456,211
Filed: December 7, 1999
For: FAIR ELEVATOR SCHEDULING ALGORITHM FOR DIRECT ACCESS
STORAGE DEVICE

Art Unit: 2182
Examiner: Joshua D. Schneider
Atty. Docket No.: IBM/112

Mail Stop APPEAL BRIEF - PATENTS
Commissioner for Patents
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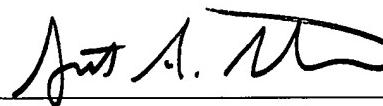
Sir:

We are transmitting herewith the attached:

Transmittal (in duplicate containing Certificate of Mailing Under 37 CFR 1.8
Communication
Amended Appeal Brief (in triplicate)
Reply Postcard

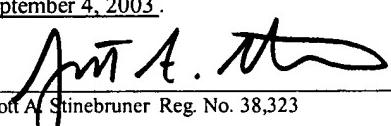
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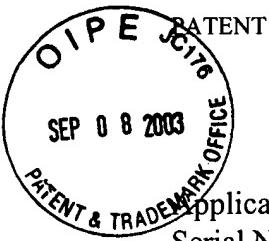
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By: 
Scott A. Stinebruner
Reg. No. 38,323

CERTIFICATE OF MAILING 37 CFR 1.8

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop APPEAL BRIEF - PATENTS, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on September 4, 2003.


Scott A. Stinebruner Reg. No. 38,323



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09/15/03

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Sir:

Enclosed herewith is an Amended Appeal Brief, which has been timely filed within one month of notification of noncompliance, as required by 37 CFR §1.192(d). *See also* MPEP, 8th Ed., pp. 1200-10 to 1200-11 (August 2001).

The enclosed Amended Appeal Brief is submitted in response to the Examiner's Answer, dated August 22, 2003. In the Examiner's Answer, the Examiner indicated in ¶7 that the first and second groups of claims stand or fall together because no reasons were presented in Applicants' Brief to support Applicants' statement that the claims do not stand or fall together. The Examiner, however, did not explicitly provide a notification of noncompliance as required by MPEP §1206. In a follow-up telephone call, however, the Examiner indicated that Applicants could either file an amended brief within one month from the date of the Examiner's Answer, or file a Reply Brief within two months from such date.

Applicants have accordingly elected to file an Amended Appeal Brief providing additional reasons to support the separate patentability of several claims in each group. Consideration and approval of the Amended Appeal Brief are therefore respectfully requested.

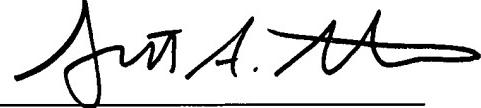
Applicants, however, do wish to note for the record that the original Appeal Brief did contain adequate reasons for the separate patentability of a number of claims found within the two groupings. Accordingly, should it be determined that an amended brief is not necessary in this instance, the enclosed paper may be considered a Reply Brief to the extent it rebuts the Examiner's contention that the claims in each grouping stand or fall together.

If there are any questions regarding this paper, or which might otherwise further this case onto allowance, please contact the undersigned at (513) 241-2324. Moreover, if any other charges or credits are necessary to complete this communication, please apply them to Deposit Account 23-3000.

Respectfully submitted,

4 SEP 2003

Date



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